

Serial: 154166

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99015-SCT

***IN RE: LOCAL RULES FOR THE
ELEVENTH CHANCERY COURT DISTRICT***

ORDER

This matter is before the Court en banc on the motion to adopt local rules for the Eleventh Chancery Court District filed by the Honorable Janace Harvey-Goree and the Honorable Cynthia L. Brewer. The local rules are attached as Exhibit A.

Having considered the motion, the Court finds that the local rules will promote the fair and efficient administration of justice and that the motion should be granted.

IT IS THEREFORE ORDERED that the motion to adopt local rules for the Eleventh Chancery Court District filed by the Honorable Janace Harvey-Goree and the Honorable Cynthia L. Brewer is hereby granted.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication as soon as practical in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)* and the *Mississippi Rules of Court*.

SO ORDERED, this the 7th day of April 2009.

/s/ George C. Carlson, Jr.

GEORGE C. CARLSON, JR.,
PRESIDING JUSTICE

TO GRANT: WALLER, C.J., CARLSON AND GRAVES, P.JJ., RANDOLPH, LAMAR,
KITCHENS, CHANDLER AND PIERCE, JJ.
TO GRANT IN PART: DICKINSON, J.

Exhibit A

**LOCAL RULES
FOR
ELEVENTH CHANCERY COURT DISTRICT OF MISSISSIPPI**

RULE 1. TERMS OF COURT

As established by prior order of the Court, the terms of Court for the Chancery Courts of each county in the Eleventh Chancery Court District shall commence on the first business day of each calendar month and terminate on the last business day of said month.

RULE 2. DOCKET SETTINGS

Attorneys must contact the Court Administrator assigned to each respective Chancellor to schedule any matters that are to be brought before the Court.

RULE 3. ASSIGNMENT OF RELATED CASES

In an effort to promote judicial economy, limit the opportunity for “judge-shopping,” and establish a uniform policy for handling related causes of action, the following policies are adopted.

(a) **Guardianships and Minor Settlements.** When a need arises to open guardianships and/or minor settlements for siblings, step-siblings, and/or half-siblings and the basis for such filings has arisen from the same causation, each case shall be assigned to the Chancellor to whom the first case is assigned. If any minor’s settlement arises out of an estate, the minor settlement(s) shall be assigned to the Chancellor to whom the estate matter is assigned. If the minor’s settlement is opened for the purpose of receiving an inheritance from two (2) or more estates, then the minor’s settlement action will remain with the Chancellor to whom it was assigned upon filing.

(b) **Reciprocal Causes of Action.** When one party initiates a cause of action against another party and the defendant from the first action later files a reciprocal cause of action against the plaintiff from the first action and both actions arise from the same set of facts, the two (2) actions shall be consolidated into the smaller cause number with that Chancellor regardless of to whom the later filed action was assigned.

(c) **Dismissed Causes of Action.** If a party initiates a cause of action which is voluntarily dismissed or dismissed on a Clerk’s motion for want of prosecution and later re-files a new cause of action based upon the same or substantially similar causation as the previously

dismissed filing, then the new cause of action shall be assigned to the Chancellor to whom the initial cause of action had been assigned.

RULE 4. EX PARTE MATTERS

(a) Notwithstanding the provisions of Rules 3 above, either Chancellor in the Eleventh Chancery Court District may sign *Ex Parte* Orders for matters filed in any of the district's four counties based upon the following schedule:

(1) **Judge Janace Harvey-Goree.** Judge Goree will hear *Ex Parte* matters from 9:00 am until 11:30 am each Thursday when Court is in session in Holmes, and Yazoo Counties. In Madison County, Judge Goree will hear *Ex Parte* matters on Friday mornings from 8:00 am until 8:50 am. Beginning August 1, 2009, Judge Goree will hear *Ex Parte* matters in Madison County from 8:30 am until 9:20 am.

(2) **Judge Cynthia L. Brewer.** Judge Brewer will hear *Ex Parte* matters on Wednesdays during morning hours in Leake County and all day on Thursdays in Madison County.

(b) *Ex Parte* matters may also be heard at any other time by the Chancellors as they may allow, provided such matters are scheduled in advance with the respective Court Administrator.

RULE 5. TRIAL AND HEARING DATES

(a) Trial dates will not be assigned unless all discovery, appraisals, valuations, and evaluations have been completed. To ensure discovery is complete, attorneys shall file a Notice of Completion of Discovery.

(b) Trial and Hearing Dates on Judge Goree's calender may be obtained from Sheila Lewis, Yazoo City 662-746-3894 or Lexington 662-834-1285.

(c) Trial and Hearing Dates on Judge Brewer's calender may be obtained from Rita Carpenter, Canton 601-855-5512.

RULE 6. CHANCERY CLERKS AND THEIR AUTHORITY

(a) **Rule 81 Matters.** Pursuant to Court Order and Rule 81(d)(5) of the Mississippi Rules of Civil Procedure, all Chancery Clerks in the Eleventh Chancery District are authorized to set Rule 81 actions or matters for original hearings and to continue the same for hearing on a later date. Court Administrators in the District are Deputy Chancery Clerks and, therefore,

are authorized to set such matters pursuant to Rule 81 (d)(5). All continuance orders must be signed on the original hearing date.

(b) Acts of the Clerk Permitted Under Miss. Code Ann. § 9-5-141.

(1) In Madison County, the Chancery Clerk is hereby authorized to perform those acts set forth in Miss. Code Ann. § 9-5-141, which include:

(i) admitting wills to probate in common form, taking proof thereof, and granting letters testamentary;

(ii) appointing administrators/trixes and administrators/trixes with the will annexed and *de bonis non* of intestate estates, issuing letters of administration thereto;

(iii) appointing guardians for minors and conservators for persons of unsound mind and issuing letters of guardianship or conservatorship thereto;

(iv) determining and adjudicating issues involving the collection and preservation of assets of testate and intestate estates, guardianships, and conservatorships;

(2) The powers specified herein above include the power to require that bond be posted in such amount as the Clerk may deem to be sufficient, unless in the case of testate estates, such requirement is waived in the testator's will.

(3) Proceedings before the Clerk shall conform to the provisions of Miss. Code Ann. § 9-5-145, and, where applicable, to the Uniform Chancery Court Rules.

(4) All such acts, judgments, orders, or decrees entered by the Clerk shall be presented to the Chancellor to whom the case is assigned at the conclusion of each monthly term of court, and, at that time, each such act, judgment, order, or decree shall be reviewed by – and either approved or disapproved by – the assigned Chancellor as set forth in Miss. Code Ann. § 9-5-147. All such acts, judgments, orders, or decrees are, therefore, subject to modification or rescission until finally approved.

(5) Until further order of the Court, the acts authorized to be performed herein shall be performed only by the Clerk himself and not by one of his deputy clerks.

(6) The Clerk may perform these acts at any time whether a Chancellor is

present in the courthouse or not and regardless of case assignment.

(7) Nothing herein shall prevent attorneys from presenting such matters to the assigned Chancellor directly, and it is preferred that attorneys do so when a Chancellor is available and present in the Courthouse.

(8) The Clerk is at all times free to decline to perform such acts if, in his determination, the matter warrants consideration by the assigned Chancellor or he is otherwise uncomfortable hearing the matter.

(9) The Clerk shall not hear such matters brought by pro se litigants in light of Rule 6.01 of the Uniform Chancery Court Rules and he shall not hear such matters wherein one or more of the parties seeks to name him as a fiduciary.

(10) In Leake County, the Chancery Clerk is authorized, pursuant to Miss. Code Ann. § 91-5-141, to sign an order admitting a will to probate if:

(i) a Chancellor is not present in the courthouse.

(ii) the original will is presented.

(iii) the will specifically appoints the executor named in the petition.

(iv) the will specifically waives bond in favor of the named executor.

(v) the Clerk is comfortable under the circumstances.

(c) Rule 6 (b) is not applicable in Holmes and Yazoo Counties.

RULE 7. PREPARATION AND SUBMISSION OF JUDGMENTS

(a) Adherence to Rule 5.04 of the Uniform Chancery Court Rules is required. As provided for therein, all judgments must be presented to the assigned Chancellor within 10 calendar days after being directed to draw the same.

(b) Before every trial, hearing, or status conference attorneys shall have in their possession a computer disk containing a proposed judgment. Following disposition of the matter at hand, attorneys will not be permitted to leave the Courthouse until a judgment has been signed by the attorneys, their clients, and the presiding Chancellor.

RULE 8. STAFF ATTORNEYS

Both Chancellors highly encourage all attorneys to utilize their staff attorneys. Judge Goree's staff attorney is Patricia Chatelain 662-746-3894. Judge Brewer's staff attorney is Jennifer Hawks 601-855-5512.

RULE 9. PARENTING CLASSES

Parties who have filed for a divorce in Madison County and have minor children are required to attend a two (2) hour parenting class arranged by the Court. These classes are held on the 2nd Tuesday of each month and are for parents only. The Court will enter an order in each such case accordingly. Attorneys should contact the Court Administrator for the assigned Chancellor if questions or emergencies arise.

RULE 10. MISSISSIPPI ELECTRONIC COURT SYSTEM

For purposes of Pilot Testing of the Mississippi Case Management/ Electronic Case Filing System (now known as the "Mississippi Electronic Court System") as previously authorized and restricted by Order of this Court dated May 6, 2008 in Cause No. 2008-0429, the Administrative Procedures for the Mississippi Electronic Court System as approved by the Mississippi Supreme Court in Cause No. 2008-AD-00001-SCT by Order dated December 11, 2008 are hereby adopted. Said Procedures are set forth as Exhibit "A" to this Order and shall be followed by the Madison County Chancery Court and its Clerk insofar as the aforesaid testing is concerned.